

STATE OF INDIANA
COUNTY OF MADISON

IN THE MADISON COUNTY CIRCUIT COURT
SS: DIV. III
2026 TERM

JAMES PETERS
Plaintiffs,
v.

CAUSE NO. 48C03-2602-MI-000057

CITY OF ALEXANDRIA, INDIANA,
DARCY VANERMAN, in her official capacity
As Clerk-Treasurer, and TODD NASELROAD,
In his official capacity as Mayor
Defendants.

**ORDER ON COMPLIANCE WITH THE
INDIANA ACCESS TO PUBLIC RECORDS ACT**

All parties appear before the Court. No party presents witness testimony but rather rely upon the totality of the prior record and present arguments to the Court. The Court is disappointed that, despite the opportunity presented during the hearing, the parties were unable to reach agreement on a reasonable and practical basis or methodology by which the Court could determine (1) which public records requests have been made by the requester, (2) which of those requests have been responded to by the responding agency, and (3) which requests remain outstanding or unfulfilled. This lack of basic agreement has unnecessarily complicated the Court's ability to efficiently resolve the issues presented under the Indiana Access to Public Records Act (APRA), Indiana Code § 5-14-3 et seq., and has hindered the orderly administration of justice in this matter.

However, based upon the record before it, the Court, having considered the parties' filings and the record, now enters the following Findings of Fact and Conclusions of Law regarding the parties' respective burdens under the Indiana Access to Public Records Act (APRA), Ind. Code § 5-14-3 et seq., and orders further action as set forth below.

Findings of Fact

1. Plaintiff alleges he submitted more than sixty public records requests to the City of Alexandria seeking utility financial and water/chlorine records. Defendants assert that, since the end of July 2025, Plaintiff and his attorney submitted at least sixty public records requests to the Clerk-Treasurer, with some copying the Mayor, and that the Clerk-Treasurer repeatedly acknowledged receipt of requests and stated they would be forwarded to legal counsel for review.
2. APRA establishes clear timeframes that trigger a constructive denial when a public agency fails to respond. Under Indiana Code section 5-14-3-9(b), a denial of disclosure occurs when the person making the request is physically present in the office of the agency, makes the request by telephone, or requests enhanced access to a document and "twenty-four (24) hours elapse after any employee of the public agency refuses to permit inspection and copying of a public record when a request has been made".

3. IC 5-14-3-9)[1]. For requests made by mail or facsimile, "a denial of disclosure does not occur until seven (7) days have elapsed from the date the public agency receives the request".
4. Defendants state that on November 7, 2025, Plaintiff filed a Formal Complaint with the Office of the Public Access Counselor (OPAC), and that on December 9, 2025, the City responded to OPAC stating the City had not denied the requests and was working on responses due to the volume and complexity of the requests.
5. Peters contends that OPAC did not receive a timely response from the City and continued to request a response, and that the document the City references surfaced only after this litigation commenced.
6. In their reply, the City of Alexandria and Mayor Naselroad contend Plaintiff's complaint does not adequately allege that the City or the Mayor denied approximately sixty public records requests, noting that the Clerk-Treasurer consistently acknowledged receipt and began review.
7. The City further represents that the Clerk-Treasurer's Office, consisting of three employees, processes APRA requests and refers matters requiring legal assistance to the City Attorney; that the requests at issue are large and complex, span multiple departments and years, and include electronic communications; and that the City experienced an atypical influx of public-records requests attributable to citizen concerns and a water shutoff to a mobile home park.
8. Counsel for Clerk-Treasurer Vanerman also argued that the Clerk-Treasurer has not denied the requests by Mr. Peters because she has "an intent" to comply.

9. The statutory framework distinguishes between acknowledging a request and actually complying with it. While acknowledging receipt may demonstrate good faith, it does not reset the clock or excuse the agency from meeting its substantive obligations under APRA. The statute's specific time limits exist to ensure prompt access to public records, consistent with APRA's stated purpose "that all persons are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees" *Rokita v. Tully*, 235 N.E.3d 189 Ind.Ct.App.(2024).
10. In summary, Indiana's APRA imposes strict time limits on public agencies, and expressing an intent to respond without actually providing access to records within the statutory timeframes will result in a constructive denial that violates the Act.
11. The Court finds that Vanerman acknowledged receipt of the requests and forwarded them to counsel; that any transmissions were incomplete, untimely, and not identified as responsive under APRA; that more than eight months have elapsed since initial requests; and that no statutory exemption, formal denial, or definite production schedule was provided.
12. Vanerman's "intent" to respond did not supplant her duty to respond, thus the lack of response has constructively denied Peters' claims.

13. The City maintains that, as to Mayor Naselroad, APRA obligations run to the public agency and not to individual employees, and seeks dismissal of claims against the Mayor.
14. Counsel for the City argues the Mayor and the City have produced all records within their possession or ability to control.
15. The City and Mayor are also clear to point out that it does not control or have direct access to the records of the Clerk-Treasurer.
16. The City and Mayor Naselroad argue that, based on the record, they have not denied access and that Plaintiff's evidence is insufficient to state a claim of denial against them.

Conclusions of Law

9. Under APRA, a public agency bears the burden to produce disclosable public records within a reasonable time or state a lawful basis for nondisclosure. The Court evaluates whether each Defendant has met its burden of producing information within its possession or otherwise complied with its obligations.
10. Based on the record, the Court concludes that Mayor Naselroad, sued in his official capacity, has met his burden of production under APRA. The filings reflect that requests were directed to and processed by the Clerk-Treasurer, that the Clerk-Treasurer acknowledged receipt and referred the requests to

legal counsel, and that the City—not the Mayor individually—serves as the public agency responsible for production.

11. The Court further concludes that the City of Alexandria has met its burden of production under APRA on the present record. The City documented receipt and processing of the requests through the Clerk-Treasurer's acknowledgments, represented ongoing efforts to retrieve and review responsive records across multiple departments, and provided a written response to OPAC asserting that no denial had occurred and that compilation was in progress due to volume and complexity. The City and Mayor Naserroad also argue Plaintiff has not adequately alleged a denial by the City or the Mayor in the operative pleadings.
12. By contrast, the Court concludes that the Clerk-Treasurer, as the official designated to process and respond to APRA requests for the City, has not met the burden of production under APRA on this record. Plaintiff asserts that, despite acknowledgments, he did not receive complete, timely productions identified as responsive, no statutory exemptions were invoked, no formal denials were issued, and no definite production schedule was provided for over eight months after the initial requests. Plaintiff further contends OPAC did not receive a timely response and continued to seek one. These un rebutted assertions, as to the Clerk-Treasurer's role and responses, demonstrate a failure to carry the burden to show compliance.

13. Failure to timely respond to public records requests under APRA may be considered constructive denial. Indiana courts have held that prolonged non-production without a valid exemption or definite timeline constitutes constructive denial. See *Knightsdown Banner, LLC v. Town of Knightsdown*, 838 N.E.2d 1127, 1133 (Ind. Ct. App. 2005) (holding that failure to provide records within a reasonable time without a valid exemption constitutes constructive denial under APRA).
14. Nothing in this Order adjudicates or resolves disputes beyond the APRA production obligations analyzed here; rather, the Court determines which parties have, on the current record, satisfied their APRA production burdens and sets directives to bring the Clerk-Treasurer into compliance.

Order and Required Actions

15. It is ORDERED that:
 - a. The Court finds that Mayor Todd Naselroad has met his burden of producing information within his possession and control under APRA based on the record described above.
 - b. The Court finds that the City of Alexandria has met its burden of producing information within its possession and control under APRA based on the record described above.

- c. The Court finds that Clerk-Treasurer Darcy Vanerman, in her official capacity, has not met the burden of producing information within her possession and control under APRA based on the record described above.
16. To cure noncompliance and ensure prompt adherence to APRA, the Clerk-Treasurer shall:
- a. Within [14] days of this Order, serve on Plaintiff and file with the Court a written status report that:
 - (i) identifies each outstanding APRA request by date and subject;
 - (ii) specifies the custodians and locations searched to date for each request;
 - (iii) describes categories of records located, produced, and withheld; and
 - (iv) states, for any withheld records, the specific APRA exemption(s) claimed and the factual basis for each.
 - b. On a rolling basis beginning no later than [21] days from this Order, produce all non-exempt, responsive records in reasonably usable form, with each production accompanied by:
 - (i) an index correlating produced documents to the corresponding request(s); and
 - (ii) a log of any withheld or redacted records identifying the exemption(s) asserted and a brief description sufficient to assess the claim.

- c. Provide a proposed reasonable completion schedule, including interim production dates, to fully respond to all outstanding requests no later than [60] days from this Order, absent good cause shown.
 - d. Confer in good faith with Plaintiff within [10] days to clarify scope, prioritize requests, and discuss feasible staging to facilitate timely production.
 - e. Preserve all potentially responsive records, including electronically stored information, pending completion of production.
17. Nothing in this Order precludes the Clerk-Treasurer from asserting any applicable APRA exemption; however, any assertion must be stated with sufficient specificity in the logs required above.
18. Failure to comply with this Order may result in appropriate further relief upon motion and notice.

ALL OF WHICH IS SO ORDERED THIS 14th DAY OF APRIL, 2026.

RECOMMENDED FOR APPROVAL:

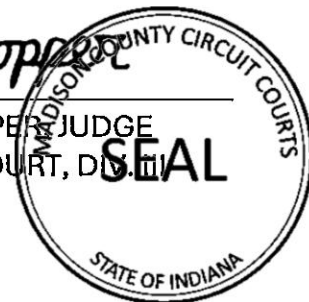
Christopher A. Cage

CHRISTOPHER A. CAGE, MASTER COMMISSIONER
MADISON COUNTY CIRCUIT COURT, DIV. III

COMES NOW THE COURT AND ENTERS JUDGMENT ON THE COMMISSIONER'S FINDINGS AND RECOMMENDATIONS.

Andrew Hopper

HONORABLE ANDREW R. HOPPER, JUDGE
MADISON COUNTY CIRCUIT COURT, DIV. III



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